

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEFFREY S. ANDERSON,
Plaintiff,

v.

DAVID SOUKUP, *et al.*,
Defendants.

Case No. C07-5350RJB

ORDER ADOPTING
REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom. Dkt. 11. The Court has considered the Report and Recommendation, objections to the Report and Recommendation, if any, and the remainder of the file herein.

On August 8, 2007, Plaintiff filed, pro se, a complaint. Dkt. 4. Judge Strombom ordered Plaintiff to show cause why his complaint should not be dismissed in light of *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Dkt. 5. After Plaintiff filed a Response to the Order to Show Cause, Judge Strombom granted Plaintiff's motion for leave to file an amended complaint on October 22, 2007. Dkt. 10. Judge Strombom identified the two potential causes of action which could proceed pursuant to 42 U.S.C. § 1983. *Id.* Plaintiff failed to file an amended complaint, or any other pleading in this case since that order. The Report and Recommendation should be adopted and the Complaint dismissed without prejudice. This dismissal shall not be counted as a strike pursuant to 28 U.S.C. § 1915(g) because the two potential causes of action Judge Strombom identified in her October 2007 order do not appear to be frivolous.

Therefore, it is **ORDERED** that:

- 1 • The Report and Recommendation (Dkt. 11) is **ADOPTED**;
- 2 • Plaintiff's Complaint is **DISMISSED WITHOUT PREJUDICE**; and
- 3 • The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any
4 party appearing *pro se* at said party's last known address.

5 DATED this 4th day of March, 2008.

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8 ROBERT J. BRYAN
9 United States District Judge
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